

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF INDIANA  
HAMMOND DIVISION

In re:

James Patrick O'Boyle

Debtor.

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:  
:  
: Case No.: 17-20365  
: Chapter 13  
: Judge Kent Lindquist  
: \* \* \* \* \*  
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**MOTION FOR RELIEF FROM AUTOMATIC STAY AND ABANDONMENT OF  
PROPERTY AND NOTICE OF OBJECTION DEADLINE WITH 30-DAY WAIVER  
(FIRST MORTGAGE) AND MOTION FOR COUNSEL TO APPEAR  
TELEPHONICALLY**

The creditor, New Penn Financial LLC dba Shellpoint Mortgage Servicing, hereby moves the Court, pursuant to 11 U.S.C. § 362(d) and § 554, to lift the automatic stay and abandon from the estate the following real property:

2276 Warrick Street, Lake Station, IN 46405, (hereinafter the "Property").

In support of the motion, the Creditor states the following:

1. James Patrick O'Boyle (hereinafter "Debtor") filed a Chapter 13 case on February 22, 2017, (hereinafter the "Petition Date").
2. As of the Petition Date, the Creditor was the holder of a claim secured by the Property, more particularly described in the Mortgage, a copy of which is attached as Exhibit "A".
3. The above described Mortgage was given to secure a promissory note, (hereinafter the "Note"), dated May 5, 2004 and made payable to the Creditor in the original sum of \$50,000.00. A copy of the Note is attached hereto as Exhibit "B".

4. The Creditor perfected an interest in the Property, more particularly described in the Mortgage, recorded in Lake County Recordings Office on May 24, 2004. Evidence of perfection is attached as Exhibit "A".

5. The loan was modified as set forth in the Loan Modification Agreement attached as Exhibit "C".

6. As of November 22, 2017, the outstanding principal of the Note was \$57,784.00 and the outstanding interest was \$4,533.27. As of November 22, 2017, the approximate payoff of the loan in question, consisting of the outstanding principal, interest, escrow advances, fees and costs is \$62,317.27.

7. The Debtor is in default post-petition. No post-petition payments have been made, therefore, a payment history is not attached.

8. The Property is of inconsequential value and benefit to the estate. Cause exists to lift the automatic stay under 11 U.S.C. § 362(d)(1) and/or 362(d)(2) for these reasons:

- a. Debtor has no equity in the Property and the Property is not needed by the Debtor for its reorganization. Creditor believes that the Property has a value of \$20,000.00 based on the Debtor's Schedule A, which is attached hereto as Exhibit "D". The balance on Creditor's first mortgage exceeds the value of the Property. Based upon the lack of equity in the Property, Creditor asserts that the Property is burdensome and/or of inconsequential value and benefit to the estate.
- b. The Creditor is not being adequately protected. Per the Note and Mortgage, payments are applied to the last month due. Based on the foregoing, Debtor has failed to make periodic payments to Creditor since March 1, 2017, which unpaid payments are in the aggregate amount of \$3,758.13 through November 2017. As of November 22, 2017, Debtor was to have made 9 post petition payments. No payments have been made by Debtor since the filing of the petition. Debtor is delinquent 9 post petition payments.

9. The Creditor hereby waives the right under 11 U.S.C. § 362(e) to a hearing on this motion within thirty (30) days of the date it is filed. Creditor, by counsel, further prays that the fourteen (14) day stay of the order imposed by Bankruptcy Rule 4001(a)(3) be waived.

10. Creditor, by counsel, further prays that Creditor's counsel be permitted to attend any hearings or conferences set pursuant to its Motion for Relief from Automatic Stay and Abandonment of Property filed on November 30, 2017, telephonically to minimize fees and costs and in light of travel distance for counsel.

**PLEASE TAKE NOTICE THAT** any objection must be filed with the Bankruptcy Clerk within fourteen (14) days of the date of this notice. Those not required or not permitted to file electronically must deliver any objection by U.S. mail, courier, overnight/express mail or in person at:

**Hammond**  
5400 Federal Plaza  
Room 2200  
Hammond, IN 46320

The objecting party must ensure delivery of the objection to the party filing the motion.

WHEREFORE, the Creditor moves the Court to enter an order lifting the automatic stay and abandoning the Property, and to allow Creditor's counsel to attend hearings or conferences set pursuant to its Motion for Relief from Automatic Stay and Abandonment of Property filed on November 30, 2017 telephonically, and granting such other relief as appropriate.

Creditor requests that further compliance with Federal Rule of Bankruptcy Procedure 3002.1 be waived as to Creditor in the within bankruptcy case upon entry of an Order granting relief from the automatic stay of Section 362.

Respectfully submitted,

/s/ Adam B. Hall  
Sarah E. Barngrover (28840-64)

Edward H. Cahill (0088985)  
Adam B. Hall (0088234)  
John R. Cummins (11532-10)  
Amy E. Gardner (93532)  
Manley Deas Kochalski LLC  
P.O. Box 165028  
Columbus, OH 43216-5028  
614-220-5611; Fax: 614-627-8181  
Attorney for Creditor  
The case attorney for this file is Sarah E.  
Barngrover.  
Contact email is  
sebarngrover@manleydeas.com

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing Motion for Relief from Automatic Stay and Abandonment of Property and Notice of Objection Deadline with 30-Day Waiver (First Mortgage) and Motion for Counsel to Appear Telephonically was served on the parties listed below via e-mail notification:

Nancy Gargula, 100 East Wayne Street, 5<sup>th</sup> Floor, South Bend, IN 46601-2349, 574-236-8105

Paul R. Chael, 401 West 84th Drive, Suite C, Merrillville, IN 46410

Miguel F. Martinez, Law Office of Moseley & Martinez, LLC, 1559 East 85th Avenue, Merrillville, IN 46410, mmartinez@mm-bklaw.com

Daniel W Matern, Law Office of Moseley & Martinez, LLC, 1559 East 85th Avenue, Merrillville, IN 46410, dmatern@mm-bklaw.com

The undersigned hereby certifies that a copy of the foregoing Motion for Relief from Automatic Stay and Abandonment of Property and Notice of Objection Deadline with 30-Day Waiver (First Mortgage) and Motion for Counsel to Appear Telephonically was served on all parties listed on the attached creditor matrix via regular U.S. Mail, postage prepaid on November 6, 2017.

/s/ Adam B. Hall

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UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF INDIANA  
HAMMOND DIVISION

In re:

James Patrick O'Boyle

Debtor.

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: Case No.: 17-20365  
: Chapter 13  
: Judge Kent Lindquist  
: \* \* \* \* \*  
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**STATEMENT IN SUPPORT OF MOTION FOR RELIEF FROM AUTOMATIC STAY  
AND ABANDONMENT OF PROPERTY AND NOTICE OF OBJECTION DEADLINE  
WITH 30-DAY WAIVER (FIRST MORTGAGE) AND MOTION FOR COUNSEL TO  
APPEAR TELEPHONICALLY**

1. Date Petition Filed: February 22, 2017
2. Plan confirmed? Yes \_\_\_\_ No X.
3. If yes, Date Plan Confirmed \_\_\_\_\_.
4. Type of Collateral: A. Residential Real Estate X; B. Nonresidential Real Estate \_\_\_\_;  
C. Motor Vehicle: Year \_\_\_\_\_, Model \_\_\_\_\_; D. Other  
(specify)\_\_\_\_\_.
5. Principal balance and accrued interest presently due: \$62,317.27.
6. Advances made for insurance and/or taxes: Insurance \$ \_\_\_\_\_; Taxes \$  
\_\_\_\_\_.
7. Postpetition payments to Movant are made: A. By Trustee \_\_\_\_; B. By Debtor X.
8. Total Postpetition Default to Movant Only: \$ 3,758.13.

A. No. of Months in default: 2;

B. Monthly Plan Payment to Movant Only: \$ 412.57.

Date last postpetition payment received by Movant:

Last postpetition payment applied by Movant to payment due for: November 1,  
2017

9. Estimated present value of Collateral: \$20,000.00; Source or Basis: the Debtor's Schedule A.
10. Stay Relief is being requested pursuant to: A. X §362(d)(1); B. X §362(d)(2).
11. Has Debtor provided proof of insurance as to Collateral? Yes     No X.

Dated November 30, 2017

Respectfully submitted,

/s/ Adam B. Hall

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Sarah E. Barngrover (28840-64)  
Edward H. Cahill (0088985)  
Adam B. Hall (0088234)  
John R. Cummins (11532-10)  
Amy E. Gardner (93532)  
Manley Deas Kochalski LLC  
P.O. Box 165028  
Columbus, OH 43216-5028  
614-220-5611; Fax: 614-627-8181  
Attorney for Creditor  
The case attorney for this file is Sarah E.  
Barngrover.  
Contact email is  
searngrover@manleydeas.com

Label Matrix for local noticing  
0755-2  
Case 17-20365-kl  
Northern District of Indiana  
Hammond Division  
Wed Dec 6 11:02:02 EST 2017

Asset Acceptance LLC  
Po Box 1630  
Warren, MI 48090-1630

Asset Acceptance, LLC  
28405 Van Dyke  
Warren, MI 48093-7132

Sarah E. Barngrover  
Manley Deas Kochalski LLC  
P.O. Box 165028  
Columbus, OH 43216-5028

Bleeker Brodey & Andrews  
9247 N Meridian Street  
Suite 101  
Indianapolis, IN 46260-1813

CCSI  
55 E 86TH AVE SUTIE A  
MERRILLVILLE, IN 46410-6382

Paul R. Chael  
401 West 84th Drive  
Suite C  
Merrillville, IN 46410-6247

City of Lake Station  
Water & Sewer Dept  
1969 Central Ave.  
Lake Station, IN 46405-2059

Custom Coll Srvs Inc  
55 E 86th Ave Ste D  
Merrillville, IN 46410-6265

DiTech Financial, LLC  
P.O. Box 6154  
Rapid City, SD 57709-6154

Ditech Financial, LLC  
Attention: T120  
7360 South Kyrene Road  
Tempe, AZ 85283-4583

Nancy J. Gargula  
100 East Wayne Street, 5th Floor  
South Bend, IN 46601-2349

Gla Collection Co Inc  
2630 Gleeson Ln  
Louisville, KY 40299-1772

Adam Bradley Hall  
Manley Deas Kochalski  
P.O. Box 165028  
Columbus, OH 43216-5028

Hsbc/Rs  
Po Box 9  
Buffalo, NY 14240-0009

Indiana Attorney General  
302 W. Washington St. South  
Fifth Floor  
Indianapolis, IN 46204-4701

Indiana Department of Revenue  
100 North Senate Avenue, N240 MS108  
Indianapolis IN 46204-2231

Indiana Department of Revenue  
Bankruptcy Section, N-203  
100 North Senate  
Room N240, MS 108  
Indianapolis, IN 46204-2231

Indiana Department of Revenue  
PO Box 0595  
Indianapolis, IN 46206-0595

Indiana Employment Security Division  
10 North Senate Street  
Indianapolis, IN 46204-2201

Internal Revenue Service  
P. O. Box 7346  
Philadelphia, PA 19101-7346

Komyattassoc  
9650 Gordon Drive  
Highland, IN 46322-2909

Komyatte & Casbon, P.C.  
9650 Gordon Drive  
Highland, IN 46322-2909

Kopka Pinkus Dolin & Eads, PC  
9801 Connecticut Drive  
Crown Point, IN 46307-7765

Lake County Treasurer  
Attention: Bankruptcy Clerk  
2293 North Main Street  
Crown Point IN 46307-1854

Lake Superior Court  
Cause No: 45C01-1502-MF-00018  
2293 N Main Street  
Crown Point, IN 46307-1854

Lake Superior Court  
Cause No: 45D08-1302-CC-00135  
2293 N Main Street  
Crown Point, IN 46307-1854

Miguel F. Martinez  
Law Office of Moseley & Martinez, LLC  
1559 East 85th Avenue  
Merrillville, IN 46410-8901

Daniel W Matern  
Law Office of Moseley & Martinez, LLC  
1559 East 85th Avenue  
Merrillville, IN 46410-8901

Merrick Bk  
Pob 9201  
Old Bethpage, NY 11804-9001



Midland Credit Management, Inc. as agent for  
 Asset Acceptance LLC  
 Po Box 2036  
 Warren MI 48090-2036

Munster Radiology Group  
 c/o Komyatte & Casbon, PC  
 9650 Gordon Drive  
 Highland, IN 46322-2909

Munster Radiology Group PC  
 P.O. Box 3248  
 Indianapolis, IN 46206-3248

James Patrick O'Boyle  
 2276 Warrick St.  
 Lake Station, IN 46405-2539

Ocwen Loan Servicing L  
 12650 Ingenuity Dr  
 Orlando, FL 32826-2703

Ocwen Loan Servicing L  
 3451 Hammond Ave  
 Waterloo, IA 50702-5345

Office of the United States Attorney  
 5440 Federal Plaza  
 Suite 1500  
 Hammond, IN 46320

Professional Recovery  
 7319 W Jefferson Blvd  
 Fort Wayne, IN 46804-6237

(p)SNAP ON CREDIT LLC  
 950 TECHNOLOGY WAY  
 SUITE 301  
 LIBERTYVILLE IL 60048-5339

(p)SPRINGLEAF FINANCIAL SERVICES  
 P O BOX 3251  
 EVANSVILLE IN 47731-3251

St Mary Medical Center  
 164 Bracken Parkway  
 Hobart, IN 46342-6789

St Mary Medical Center  
 c/o Komyatte & Casbon, PC  
 9650 Gordon Drive  
 Highland, IN 46322-2909

United States Attorney General  
 950 Pennsylvania Ave., NW  
 Washington, DC 20530-0001

The preferred mailing address (p) above has been substituted for the following entity/entities as so specified  
 by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g)(4).

Snap-On Credit Llc  
 Po Box 506  
 Gurnee, IL 60031

Springleaf Financial S  
 6701 Broadway Ste 1a  
 Merrillville, IN 46410

The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

(d)Internal Revenue Service  
 P.O. Box 7346  
 Philadelphia, PA 19101-7346

(u)New Penn Financial LLC dba Shellpoint Mort

End of Label Matrix	
Mailable recipients	42
Bypassed recipients	2
Total	44